IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9664 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT AGRICULUTRAL UNIVERS. - Petitioner(s)

Versus

MAHENDRA S PANDYA - Respondent(s)

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Appearance :

MR SA DESAI for Petitioner No(s).: 1.

MR MD RANA for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 20/07/2005

ORAL JUDGMENT

1.0 The petitioner has challenged the award dated 04.08.1999 passed by the Labour Court, Junagadh, in

Reference (LCJ) No.1494 of 1990, whereby the petitioner was directed to reinstate the respondent with continuity of service and 50 per cent back wages.

2.0 The brief facts of the case are that the respondent was employed as a daily wager Clerk with the petitioner University w.e.f. 15.11.1983. As per the say of the respondent, he worked up to 31.10.1985 on which day his services were terminated by an oral order.

2.1 Being aggrieved by the order of dismissal, the respondent raised a dispute by way of a reference. The petitioner appears before the Court and replied to the statement of claim stating that the reference was not maintainable because the respondent had instituted a suit being Suit No.1011 of 1988 before the Court of the Civil Judge (S.D.), Junagadh and that on 24.03.1989 the said Court had dismissed the suit in question.

2.2 The Labour Court, after hearing the parties, passed the impugned award. Hence, this petition.

3.0 While admitting the matter on 27.09.2000, this Court had stayed the operation of the impugned award qua back

wages only. It is stated that pursuant to the aforesaid order, the respondent is already reinstated in service. Therefore, the only question which is now required to be considered by this Court is with regard to grant of 50 per cent back wages to the respondent.

4.0 Mr.S A Desai learned advocate for the petitioner has contended that the respondent was employed under the NARP Scheme for oilseeds and pulses on 15.11.1983 and since the work under the said Scheme was over on 24.10.1985, his services came to be terminated. He has, therefore, submitted that since he was appointed under the said Scheme, the Labour Court has committed an error in granting 50 per cent back wages.

5.0 I have heard learned counsel for the parties and perused the documents placed on record. In the impugned award, the Labour Court has not given any cogent reasons as to on what basis it has awarded 50 per cent back wages to the respondent. Moreover, in view of the principle laid down by the Apex Court in the case of General Manager, Haryana Roadways v. Rudhan Singh reported in J.T. 2005(6) S.C. pg.137, wherein it has been held that an order for payment of back wages should not be passed

in a mechanical manner, but, a host of factors are to be taken into consideration before passing any such order, the order awarding back wages is required to be quashed and set aside.

6.0 In above view of the matter, this petition is partly allowed. The impugned award of the Labour Court is modified to the extent that the direction qua granting reinstatement with continuity in service is confirmed; and, the direction qua awarding 50 per cent back wages is quashed and set aside. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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